



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.state.nv.us>

Wednesday, September 22, 2004
9:30 a.m.

Nevada Legislature
401 South Carson Street, Room 1214
Carson City, Nevada 89701

Open sessions were also viewable from the web site of the Nevada Legislature, located at:

<http://leg.state.nv.us>

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission office.

Commission Members Present:
Caren Jenkins, Esq., Vice Chairman;
William Flangas, P.E.; Mark Hutchison, Esq.;
George Keele, Esq.; Jim Kosinski, Esq.

Commission Members Absent due to their participation in the Panel Proceeding:
Rick R. Hsu, Esq., Chairman; Timothy Cashman

Commission Member Absent:
Merle Berman

Commission on Ethics Staff Present:
Stacy M. Jennings, Executive Director; Nancy Lee Varnum, Commission Counsel;
Emily H. Nunez, Administrative Assistant

Parties Present:
Kathy Augustine, State Controller;
Dominic Gentile, Esq. & John Arrascada, Esq.,
Attorneys-at-Law, serving as Counsel to Kathy Augustine

Others Present:
Members of the media and general public;
Witnesses under subpoena

Vice Chairman Jenkins called the meeting to order at 9:41 a.m., Wednesday, September 22, 2004.

Agenda Item 1 – Open Session to approve the Minutes of August 18, 2004 Commission Meeting

Commissioner Keele moved to approve the minutes. Commissioner Flangas seconded the motion. The motion was put to vote and carried unanimously. Commissioners Hutchison & Kosinski abstained from the vote as they did not attend the August 18, 2004 meeting.

Agenda Item 2 – Closed Session

To receive and deliberate information or evidence concerning the propriety of a public officer pursuant to NRS 281.511 subsection 13, and NAC 281.109.

Agenda Item 3 – Request for Opinion 04-47

Open Session to take action on a proposed stipulation in the matter of the Request for Opinion regarding the conduct of Kathy Augustine, Nevada State Controller.

A stipulation was proposed pursuant to Nevada Administrative Code 281.109 (2) to resolve the issues related to Request for Opinion No. 04-47 through a stipulated opinion in lieu of holding a hearing. NAC 281.109 subsection (2) provides, “At its discretion and with the agreement of the subject of an ethics complaint, the Commission may in lieu of holding a hearing resolve the matter before the Commission with a stipulated agreement. Such a stipulated agreement must be in writing or made by oral statement on the record.”

The proposed stipulation was read into the record by Executive Director Stacy Jennings.

Commissioner Flangas moved to approve the stipulation with three willful violations of NRS 281.481(7), and a civil penalty of \$25,000.00 pursuant to NRS 281.551 section (1). The motion failed due to lack of a second.

Commission Kosinski moved that pursuant to Nevada Administrative Code 281.109 the Commission approve the stipulation as proposed by the Controller and presented to the Commission. Commissioner Keele seconded the motion. The motion passed on a three-to-two vote, with Commissioner Hutchison opposing because he felt a full hearing would be more beneficial, and Commission Flangas opposing because he felt a fine of \$25,000.00 would be more appropriate.

Agenda Item 4 – Request for Opinion 04-47

As a result of the stipulation approved by the Commission under Agenda Item No. 3, Agenda Item No. 4, (an open session to hear testimony, receive evidence, deliberate and render an opinion relating to Request for Opinion 04-47) was cancelled.

Agenda Item 5 – Open Session for Public Comment

No public comment was made.

Vice Chairman Jenkins adjourned the meeting at 12:23 p.m.

Minutes transcribed by:

Minutes approved October 13, 2004.

Emily H. Nunez
Administrative Assistant

Caren Jenkins, Esq.
Vice Chairman